

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1-27 are now pending in this application.

Information Disclosure Statement

Applicants wish to thank the Office for providing a signed copy of the PTO SB/08 form that accompanied the Information Disclosure Statement filed on April 22, 2005.

Applicant also filed an Information Disclosure Statement and PTO SB/08 form on August 16, 2005. Copies of these documents are attached to this response, along with the postcard showing that the Information Disclosure Statement and PTO SB/08 form were filed on August 16, 2005. Applicant respectfully submits that no fee is necessary because these documents were filed before the first Office Action was mailed.

Applicant respectfully requests that the Office consider the references listed in the PTO SB/08 form and provide a copy of a fully initialed PTO SB/08 form with the next Office correspondence.

Rejection under 35 U.S.C. § 102

Claims 1-8 and 10-27 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,168,629 (hereafter "Timoteo"). This rejection is respectfully traversed.

Timoteo discloses a femoral component that includes two lateral condyles 2, 3 that form an intercondylar space 4. See Timoteo at col. 2, lines 64-67. A third condyle 9 can be

fitted into the intercondylar space 4 when the posterior cruciate ligament of a patient is absent and posterior stabilization is needed. See Timoteo at col. 3, lines 9-17. The Office identifies condyles 2, 3, 9 as segments on page 2 of the Office Action.

Claims 1-8 and 10-20

Independent claim 1, as amended, recites a femoral component for a total knee joint replacement comprising, among other things, “a first, second, and third segment, . . . each of said first, second, and third segments having at least one assembly surface adapted to be joined to an assembly surface of an adjacent one of said first, second, and third segments, said assembly surface being generally planar and arranged to be oriented generally in a plane extending in a proximal-distal direction and in an anterior-posterior direction when said femoral fixation surface is positioned on said distal end of said femur,” “wherein each of the first, second and third segments is configured to be separately inserted through an incision in a person and assembled to another of the first, second, and third segments after insertion through the incision,” and “wherein the third segment comprises a central bearing surface on an anterior portion of said component.”

Timoteo does not teach or suggest such a femoral component that includes, among other things, a first, second, and third segment, “wherein each of the first, second and third segments is configured to be separately inserted through an incision in a person and assembled to another of the first, second, and third segments after insertion through the incision,” as recited in amended claim 1. The Examiner asserted that Timoteo’s condyles 2, 3, and 9 correspond to the first, second, and third segments of claim 1. Condyles 2 and 3 of Timoteo, however, are not configured to be separately inserted through an incision because condyles 2 and 3 are formed by a single piece of the femoral component, as shown in the Figures of Timoteo.

Timoteo also does not teach or suggest the femoral component of claim 1, “wherein the third segment comprises a central bearing surface on an anterior portion of said component.” Such a central bearing surface of a third segment can be used, for example, to replace the natural patellofemoral bearing surface of a femur. The condyles 2, 3, 9 of

Timoteo do not comprise a central bearing surface on an anterior portion of the femoral component because these condyles are located at the posterior portion of the femoral component, not the anterior portion. For instance, Timoteo discloses that condyle 9 is used to provide posterior stabilization. See Timoteo at col. 3, lines 9-17. Condyles 2 and 3 also lie in the same region as condyle 9, as shown in the Figures of Timoteo. Therefore, Timoteo does not disclose a third segment, “wherein the third segment comprises a central bearing surface on an anterior portion of said component,” as recited in claim 1.

Dependent claims 2-8 and 10-20 depend directly or indirectly from independent claim 1. Consequently, they are patentable over Timoteo for at least the same reasons as claim 1.

For at least the reasons discussed above, Timoteo does not teach or suggest the femoral component of claims 1-8 and 10-20.

Claims 21 and 22

Independent claim 21, as amended, recites a femoral component for a total knee joint replacement comprising, among other things, a plurality of segments with each segment having “at least one assembly surface adapted to be joined to an assembly surface of an adjacent one of said segments,” with the bearing surfaces of adjacent segments “being positioned to form a generally continuous bearing surface on an anterior portion of said component.”

Timoteo does not teach or suggest such a femoral component. Applicant respectfully submits that the condyles 2, 3, 9 of Timoteo do not form a generally continuous bearing surface on an anterior portion of the component. As shown in Timoteo, condyles 2, 3, 9 and their respective bearing surfaces are located in the posterior region of the femoral component of Timoteo. Therefore, condyles 2, 3, 9 of Timoteo cannot form a generally continuous bearing surface on an anterior portion of a femoral component.

Dependent claim 22 depends from independent claim 21. Consequently, it is patentable over Timoteo for at least the same reasons as claim 21.

For at least the reasons discussed above, Timoteo does not teach or suggest the femoral component of claims 21 and 22.

Claims 23-27

Independent claim 23 recites a method of implanting a femoral component for a total knee joint replacement on a distal end of a femur comprising, among other things, the steps of “providing a plurality of segments, each of said segments having a femoral fixation surface adapted to be positioned on a distal end of a femur,” and “selecting segment sizes configured to position the assembly surfaces of the segments at a desired location when implanted on a distal end of a femur.”

Timoteo does not teach or suggest such a method of implanting a femoral component for a total knee joint replacement. For example, Timoteo does not disclose selecting sizes for condyles 2, 3, 9 so that assembly surfaces of the condyles 2, 3, 9 are at a desired location when implanted on a distal end of a femur. Timoteo is silent in regard to the selection of different sizes of condyles 2, 3, 9.

Furthermore, Timoteo discloses that condyle 9 has surfaces for fixing condyle 9 to condyles 2 and 3. See Timoteo at col. 3, lines 25-31. However, Timoteo does not disclose that condyle 9 includes a femoral fixation surface adapted to be positioned on a distal end of a femur. Therefore, condyle 9 is not a segment with a femoral fixation surface, as recited in claim 23.

Dependent claims 24-27 depend directly or indirectly from independent claim 23. Consequently, they are patentable over Timoteo for at least the same reasons as claim 23.

For at least the reasons discussed above, Timoteo does not teach or suggest the method of claims 23-27. Withdrawal of this rejection is respectfully requested.

Rejection under 35 U.S.C. § 103

Claim 9 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Timoteo. This rejection is respectfully traversed.

Dependent claim 9 depends from independent claim 1. Consequently, it is patentable over Timoteo for at least the same reasons as claim 1. Withdrawal of this rejection is respectfully requested.

Conclusion

Applicant submits that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is believed that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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By 

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 672-5349
Facsimile: (202) 672-5399

Andrew E. Rawlins
Attorney for Applicant
Registration No. 34,702